



GP3761

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appellants: Christine Carlucci and Gerard Carlucci

For: Medical Tubing Securing Device

Serial No.: 09/930,398

Filed: August 15, 2001

Group: 3761

Atty Docket: 866.0002

**RESPONSE PURSUANT TO 37 C.F.R. § 1.111**

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Sir:

In response to the office action mailed on November 28, 2003, applicant submits the following comments for consideration and entry into the file of the above-identified application.

**RECEIVED**

MAR 03 2004

TECHNOLOGY CENTER R3700

**Certificate of First Class Mailing**

I hereby certify that this paper and all enclosures referred to herein are being deposited with the United States Postal Service under 37 C.F.R. § 1.8 on February 25, 2004, addressed to Commissioner for Patents, PO Box 1450, Alexandria VA, 22313-1450.

Signature

Printed Name

Julio Simmons

Response Pursuant to 37 CFR § 1.111  
Serial No. 09/930,398  
February 25, 2004  
Page 2

## COMMENTS

Claims 1-14 are pending in the application.

### Rejection Under 35 USC § 102

The examiner rejected claims 1-4, 6-9, and 11-14 as anticipated under 35 USC § 102(b) by US Patent 5,411,484 (“the ‘484 patent) to Shattuck. Applicant traverses this rejection.

The rejected claims are all limited to a one-piece fabric band having a closed loop which fits elastically around a portion of the body. The ‘484 patent, on the other hand, does not disclose an elastic loop, but instead discloses an open fabric strip having a loop at one end and a velcro attachment at the other end. The loop is placed over tubing inserted into the head and the free end is pulled taut and attached by velcro to the fabric strip in order to maintain a frictional hold on the head. Col. 4, lines 8-13. The lack of elastic characteristic is explicitly acknowledged by the suggestion at col. 4, lines 5-8 that the “inner surface 9 of loop 3 may be optionally treated with a non-slip material in order to further facilitate grip strength.”

Accordingly, the ‘484 does not teach a closed elastic loop which fits around a portion of the body, as claimed by the present application, and therefore cannot anticipate the claims of the present application. Withdrawal of this ground of rejection is respectfully requested.

Response Pursuant to 37 CFR § 1.111  
Serial No. 09/930,398  
February 25, 2004  
Page 3

**Rejection under 35 U.S.C. § 103**

The examiner rejected claims 5 and 10 as obvious under 35 U.S.C. § 103 over the ‘484 patent in view of US Patent 3,878,849 (“the ‘849 patent”) to Muller. This rejection is traversed.

The examiner found that the ‘484 patent teaches a second closed loop formed with heat sealing and the ‘849 patent teaches the closed loop formed by stitching.

As a first matter, the ‘484 patent, as discussed above, does not disclose a one-piece closed elastic loop which fits over a portion of the body. The ‘849 patent does not disclose such a structure either, but instead discloses an elastic strap which may be adjustably tightened about a portion of the body. Onto the strap is stitched a second piece comprised of a loop to retain a tube which is inserted into the body. The ‘849 patent therefore teaches away from (1) the elastically adjustable fitting of claims 5 and 10, and (2) the one-piece nature of the structure claimed in claims 5 and 10. The combination of these references therefore does not render obvious the structure claimed in claims 5 and 10. Withdrawal of this rejection is therefore respectfully requested.

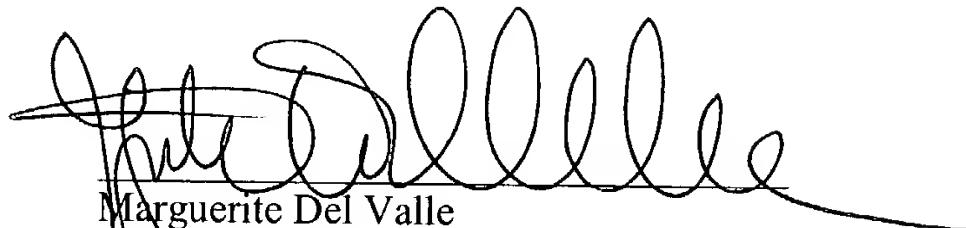
Response Pursuant to 37 CFR § 1.111  
Serial No. 09/930,398  
February 25, 2004  
Page 4

## CONCLUSION

In view of the foregoing, applicants respectfully request that the claims be allowed to proceed to issuance.

February 25, 2004

Respectfully submitted,



Marguerite Del Valle  
Reg. No. 34,319  
Trademark & Patent Counselors of America, P.C.  
915 Broadway  
New York, New York 10010  
212-387-0247